

The complaint

Mr and Mrs T complain that AXA Insurance UK plc unfairly declined their flood damage claim.

Mr and Mrs T are joint policyholders of buildings insurance underwritten by AXA. For ease of reading, I'll refer to Mr T throughout my decision.

What happened

The background to this complaint is well-known to both parties. So, I've set out a summary of what I think are the key events.

- Mr T claimed under his policy for flood damage to his swimming pool.
- AXA declined the claim because the policy excluded cover for the swimming pool unless the flood also damaged the home.
- Mr T paid for cleaners to repair his pool to minimise further damage.
- He asked AXA to reconsider its decision because the policy wording had changed to include patios within the buildings section.
- As the pool was within the boundary of the patio, Mr T felt it should be covered under the new policy wording.
- AXA issued its final response repeating that the policy excluded cover for the swimming pool, so it wouldn't be paying his claim.

Mr T brought his complaint to us, but our investigator didn't think AXA had done anything wrong. He said that although Mr T's confusion was understandable because 'Home' wasn't defined in the policy, he thought the terms were clear that the damage was excluded for the reason AXA gave. Therefore, our investigator didn't uphold the complaint.

Mr T didn't agree. He said the patio was also damaged, which the new policy wording classed as the building, so his pool should also be covered.

The complaint was passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I've decided not to uphold Mr T's complaint. I realise this will be a disappointment to him, but I'll explain my reasons.

The relevant regulator's rules say that insurers must handle claims promptly and fairly, and that they mustn't turn down claims unreasonably.

The key issue of complaint is whether AXA declined the claim in line with the policy. Mr T doesn't think AXA took into consideration the changes in the policy wording.

The buildings insurance policy sets out the detail of the contract between Mr T and AXA, so I've relied on that, alongside all other evidence, to decide whether AXA did anything wrong.

Simply put, Mr T said his buildings insurance covered his property for flood damage. Policy changes meant that drives, footpaths and patios would now be included for flood damage, regardless of whether the main property was damaged. Patios and swimming pools, amongst other things, are within the broader definition of Outdoor Permanent Structures (OPS). The new policy wording included OPS under the main buildings cover. Therefore, Mr T said it follows that his patio, including his pool, should be covered under the buildings section of the policy and shouldn't have been listed in the "What is not insured?" section.

AXA said the pool wasn't covered because the policy excludes cover for, "...swimming pools... (unless the *Home* is also affected at the same time by the same original cause)."

I've thought carefully about Mr T's understanding of the policy, along with the changes to the wording, and about AXA's reason for declining his claim. While I understand Mr T's view, I don't agree that it's an accurate reflection of what the policy covers. That's because:

- Under the Buildings section, the policy covers flood damage.
- The new wording includes OPS within the Buildings section.
- Swimming pools are included in the OPS definition.

Therefore, it follows that the swimming pool is covered under the buildings section.

- The new wording says, "Flood damage to drives, footpaths and patios will now be considered, even if the main property has not been damaged".
- Drives and patios are included in the definition of OPS.

Therefore, it follows that patios are covered under the buildings section.

- There are exclusions to the cover provided under the buildings section.
- Flood damage for swimming pools, amongst other things, is excluded unless the home is also damaged.
- The policy definition of Home is, "The main building within the Boundary of the Insured Address. This includes attached garages and conservatories and excludes Outbuildings and Outdoor Permanent Structures".
- Previously flood damage cover was excluded for drives, footpaths and patios unless the home was also damaged.
- The new wording specifically removed drives, footpaths and patios from this exclusion.
- The new wording *didn't* specifically remove swimming pools from the exclusion.
- Nor did the new wording remove OPS as a whole from the exclusion.

Therefore, it follows that there was no change to the cover for flood damage in relation to swimming pools, and the policy specifically excludes cover unless the home is also damaged. This exclusion overrides the broader cover given under the buildings section.

Mr T said his patio was also damaged, and his swimming pool is set into the patio. The other structures listed under the exclusion are above ground structures, leading him to believe his swimming pool shouldn't fall within the same exclusion. While his observation may well be the case, I can't agree that the policy should necessarily be interpreted that way.

I've noted Mr T's final comment which is to question whether the pool would've been covered under the policy if it had been indoors. My consideration is of what actually happened, and it would be inappropriate for me to comment on other scenarios.

Overall, I'm satisfied that AXA declined Mr T's claim for flood damage to his swimming pool fairly, in line with a defined policy exclusion, and reasonably in the circumstances. Therefore, I see no reason to ask AXA to pay the claim.

My final decision

For the reasons I've given, my final decision is that I don't uphold Mr and Mrs T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T and Mr T to accept or reject my decision before 13 March 2024.

Debra Vaughan
Ombudsman